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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7 KENNETH R. HARDTKE,

8 Plaintiff,

9 v.

10 NANCY A. BERRYHILL, Deputy
11 Commissioner of Social Security for Operations,

12 Defendant.

CASE NO. C17-5375 BAT

**ORDER GRANTING PLAINTIFF'S
MOTION FOR EAJA FEES AND
EXPENSES**

13 Plaintiff moves for Equal Access to Justice Act ("EAJA") fees and expenses. Dkt. 17.

14 The Commissioner concedes that her position was not substantially justified but asks the Court to
15 reduce the award because plaintiff's brief contained too lengthy a recitation of the medical
16 evidence and of plaintiff's testimony. Dkt. 18.

17 In its order reversing and remanding, the Court noted that plaintiff's counsel had
18 expended too much energy quoting doctors' opinions seriatim and too little energy specifying
19 why that medical evidence demonstrated harmful error. Dkt. 14, at 5–6. The Court's observation
20 did not imply, however, that the Court will micromanage counsel's advocacy particularly where,
21 as here, plaintiff received excellent results and counsel therefore deserves the full compensatory
22 fee. *See Sorenson v. Mink*, 239 F.3d 1140, 117 (9th Cir. 2001). Although the Commissioner
23 recommends reducing EAJA fees by 27.8% because 5 pages of plaintiff's brief were superfluous,

1 the Court notes that it is common for shorter briefs to take longer to write. In fact, the Court's
2 order of remand suggests that plaintiff's counsel should have expended *more* time (not less time)
3 on a more forceful legal analysis of the medical evidence.

4 The Court **GRANTS** plaintiff's motion for 28 U.S.C. § 2412 fees and costs, including the
5 additional hours expended by plaintiff's counsel to reply to the Commissioner's opposition. Dkt.
6 17. The Court therefore awards plaintiff EAJA fees of **\$8,140.64** and expenses of **\$5.70**. Subject
7 to any offset allowed under the Treasury Offset Program, payment of this award shall be sent to
8 plaintiff's attorney Eitan Kassel Yanich at his address: Eitan Kassel Yanich, PLLC, 203 Fourth
9 Ave. E., Suite 321, Olympia, WA 98501.

10 DATED this 24th day of May, 2018.

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13 BRIAN A. TSUCHIDA
14 Chief United States Magistrate Judge
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